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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,422	09/26/2006	Akira Kitano	160-513	3248
23117	7590	09/07/2010	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			CARTER, MICHAEL W	
ART UNIT	PAPER NUMBER			
	2828			
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09/07/2010	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/594,422	KITANO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	MICHAEL CARTER	2828	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 July 2010.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,3-9,11-17 and 19-23 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 1,3-9,11-13,15-17,19,20,22 and 23 is/are allowed.

6) Claim(s) 14 and 21 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Priority***

1. Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 14 and 21** are rejected under 35 U.S.C. 102(a) ad 102 (e) as being anticipated by US 2004/0264533 ('533).

4. The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

5. **For claim 14,** '533 teaches a bluish-purple (paragraph 216) light emitting laser element (figure 2b): comprising a semiconductor stacked structure (figure 2b) including a semiconductor layer of a first conductivity type (figure 2a, label 6), an active layer (figure 2a, label 10) and a semiconductor layer of a second conductivity type (figure 2a, label 14) which are stacked one upon the other and each comprises a nitride (paragraph 56 and 92), wherein the semiconductor stacked structure defines, when viewed in plan, a quadrangle having four right angles (figure 5) and having a first edge (left), a second edge opposing the first edge (right), a third short edge (top) and a fourth short edge opposing the third short edge (bottom); and a striped waveguide region of a laser light provided on the semiconductor layer of the second conductivity type (figure 2b in region 36), wherein the striped waveguide region extends parallel to the first/second edges of the quadrangle (figure 2b shows the waveguide region is between insulating regions 30 while figure 5 shows the waveguide region between regions 30 runs parallel to the first second edges), wherein the element comprises an insulation region for reducing the capacitance of the element in a peripheral region remote from the waveguide region (figures 2a and 5, label 30), wherein the region for reducing the capacitance of the element defines a rectangle when viewed in plan, the rectangle having a first long edge extending parallel to a longitudinal direction of the striped waveguide region, a second long edge opposing the first long edge and positioned nearer to the striped waveguide region than the first long edge, a first short edge and a second short edge opposing the first short edge, with the first short edge being positioned nearer the third short edge of the quadrangle than the second short edge,

wherein the first long edge of the rectangle is remote from the first edge of the quadrangle, and the first and second short edges of the rectangle are remote from the third and fourth short edges of the quadrangle, respectively (figure 5, edges of label 30 compared to the edges of the entire figure 5).

6. **For claim 21**, '533 teaches the semiconductor stacked structure is rectangular when viewed in plan (figure 5).

***Response to Arguments***

7. Applicant's arguments with respect to claims 14 ad 21 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

8. **Claims 1, 3-9, 11-13, 15-17, 19-20 and 22-23** are allowed.

9. The following is a statement of reasons for the indication of allowable subject matter: Independent claims 1, 4, 11 and their dependent claims are allowable based on the applicant's amendments and arguments submitted 7/28/2010.

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

11. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Carter whose telephone number is (571) 270-1872. The examiner can normally be reached on Monday-Friday, 7:00 a.m.-4:30 p.m., EST.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MinSun Harvey can be reached on (571) 272-1835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MC/

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/Tod T Van Roy/  
Primary Examiner, Art Unit 2828